

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MELODY DOMINGUEZ, STEPHANIE
HOLDREN, and all other Plaintiffs similarly
situated known and unknown,

Plaintiffs,

v.

QUIGLEY'S IRISH PUB, INC., NANCY
QUIGLEY, and MICHELLE MICHAEL,
individually,

Defendants.

No. 09 CV 2583

Magistrate Judge Cole

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs Melody Dominguez (“Dominguez”) and Stephanie Holdren (“Holdren”), by and through their attorneys, Caffarelli & Siegel Ltd., and pursuant to Federal Rule of Civil Procedure 56(a), respectfully move this Honorable Court to grant their Motion for Summary Judgment against Defendants Quigley’s Irish Pub (“Pub” or “Company”), Nancy Quigley (“Quigley”), and Michelle Michael (“Michael”) due to their violations of the Fair Labor Standards Act (“FLSA”) and Illinois Minimum Wage Law (“IMWL”). Plaintiffs request that the Court grant summary judgment on liability in their favor and against Defendants, and that this matter proceed to trial for purposes of determining damages. In support of this Motion, Plaintiffs also submit their Memorandum of Law, their Local Rule 56.1(a)(3) Statement of Undisputed Material Facts, and supporting evidentiary materials, which are separately filed, and further states:

1. Plaintiffs, former employees that worked as servers for Defendants, bring a two-count complaint alleging that Defendants violated the FLSA and IMWL by paying Plaintiffs less than the minimum wage, and by failing to pay overtime.

2. Summary judgment is warranted in favor of Plaintiffs because the undisputed facts show that: (1) Defendants altered Plaintiffs' time records, and failed to pay Plaintiffs at least the applicable minimum wage rate for all hours worked by Plaintiff; (2) Defendants were not entitled to take a "tip credit" because Plaintiffs were not able to retain all of their tips due to Defendants' policy requiring servers to reimburse the Pub for "walk-outs;" and (3) Plaintiffs were not paid overtime for all hours worked in excess of forty (40) per week.

3. As set forth in Plaintiffs' accompanying Memorandum of Law, Local Rule 56.1(a)(3) Statement of Undisputed Material Facts, and supporting evidentiary materials, the evidence does not present any undisputed issues of material fact, and Plaintiffs are entitled to judgment as a matter of law.

WHEREFORE, Plaintiffs Melody Dominguez and Stephanie Holdren respectfully request that this Honorable Court grant their Motion for Summary Judgment and schedule a trial for purposes of resolving any remaining material issues, including damages.

Dated: November 8, 2010

Respectfully submitted,

MELODY DOMINGUEZ and
STEPHANIE HOLDREN

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By: /s/ Bradley Manewith
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that he caused a copy of the attached, Plaintiffs' Motion for Summary Judgment, to be served upon the parties below by electronically filing with the Clerk of the U.S. District Court of the Northern District of Illinois on November 8, 2010.

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Courtesy copy delivered to chambers of Magistrate Judge Cole within 24 hours of filing.

/s/ Bradley Manewith
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